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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Sauk-Suiattle Indian Tribe Alcohol Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Alcohol Control Ordinance of the Sauk-Suiattle Indian Tribe. The alcohol control ordinance is to regulate and control the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of Washington for the purpose of generating new Tribal revenues. Enactment of this ordinance will help provide a source of revenue to strengthen Tribal government, provide for the economic viability of Tribal enterprises, and improve delivery of Tribal government services.

DATES: This code shall take effect on [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Greg Norton, Tribal Government Specialist, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232, Phone: (503) 231-6702; Fax: (503) 231-2201.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Pub. Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the *Federal Register* notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Sauk-Suiattle Tribal Council duly adopted the Alcohol Control Ordinance of the Sauk-Suiattle Indian Tribe on May 16, 2019.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary–Indian Affairs. I certify that the Sauk-Suiattle Indian Tribal Council duly adopted the Alcohol Control Ordinance of the Sauk-Suiattle Indian Tribe by Resolution No. 05/19A/2019 dated May 16, 2019.

Dated: November 18, 2019.

Tara Lean Sweeney,
Assistant Secretary–Indian Affairs.

Alcohol Control Ordinance of the Sauk-Suiattle Indian Tribe

Section 1. Definitions

- a. Alcoholic Liquor.** Alcoholic liquor means any alcoholic beverage containing more than one half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.
- b. Barrel.** Barrel means 31 gallons for beer or malt beverages.
- c. Beer or Malt Beverage.** Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than 14 percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as 'non-alcoholic beer' which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.5 percent alcohol by volume. The term 'malt beverage' does not include sake, known as Japanese rice wine.
- d. Liquor Establishment.** Liquor establishment means any public place, including a place available for rental by the public, selling alcoholic liquor either for consumption by the public on the premises or for carry-out to be consumed on private property. A liquor establishment is not considered a public place for purposes of the Sauk-Suiattle Indian Tribe Law and Order Code § 5.9.000.
- e. “To Sell” or “Sale”**
- i.** Whenever the words “sell” or “to sell” refer to anything forbidden by this ordinance and related to alcoholic liquor, they include: (a) To solicit or receive an order. (b) To keep or expose for sale. (c) To deliver for value or in any way other than purely

gratuitously. (d) To peddle. (e) To keep with intent to sell. (f) To traffic in. (g) For any consideration, promise or obtain directly or indirectly or under any pretext or by any means to procure or allow to be procured for any other person.

ii. The word “sale” includes every act of selling as defined in subsection (i).

f. Wine. Wine means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

Section 2. Findings and Purpose.

a. The introduction, possession, and sale of liquor on Indian reservations has historically been recognized as a matter of special concern to Indian tribes and to the United States. The control of liquor within the territorial jurisdiction of the Sauk-Suiattle Indian Tribe remains exclusively subject to the legislative enactments of the Sauk-Suiattle Indian Tribe in its exercise of its governmental powers over its territories, and the United States.

b. Federal Law prohibits the introduction of liquor into Indian Country (18 U.S.C. § 1154), and authorized tribes to decide when and to what extent liquor transactions, sales, possession and service shall be permitted on their reservation (18 U.S.C. § 1161).

c. Pursuant to the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe Article VII § (B) the Sauk-Suiattle Tribal Council, the governing body of the Sauk-Suiattle Indian Tribe, has the authority “to negotiate with the federal, state, and local governments on behalf of the tribe, and to advise and consult with the representatives of the department of the interior on all activities of the department that may affect the Sauk-Suiattle Indian Tribe.

d. Pursuant to Article VII § (P) the Sauk-Suiattle Tribal Council has the authority “to promulgate and enforce ordinances governing the conduct of all persons within the jurisdiction of the Sauk-Suiattle Indian Tribe.”

Section 3. Jurisdiction. To the greatest extent feasible under existing law, including but not limited to the Treaty of Point Elliott and authority delegated under Title 18, United States Code Section 1161, this Act shall apply throughout the territorial jurisdiction of the Sauk-Suiattle Indian Tribe as set forth in Article 1, Section 2, of the Constitution of the Sauk-Suiattle Indian Tribe approved by the Secretary of the Interior on September 17, 1975. Nothing herein shall be construed to limit the inherent sovereignty of the Sauk-Suiattle Indian Tribe to regulate liquor sales and service on all lands within the Tribe’s reservation or which constitute Indian Country as defined in 18 U.S.C. § 1151 subject to the governmental jurisdiction of the Sauk-Suiattle Indian Tribe. To that end, this ordinance shall be liberally construed.

Section 4. Provisions of Ordinance. It shall be unlawful for any person to sell, trade or manufacture any alcoholic liquor within the territorial jurisdiction of the Sauk-Suiattle Indian Tribe except as provided for in this ordinance.

Section 5. Grant of Liquor Establishment. All commercial liquor establishments shall require a grant from the tribal council of the Sauk-Suiattle Indian Tribe to operate. A grant shall issue

from a formal resolution of the tribal council and shall specifically outline the location of the establishment, where alcohol is permitted to be served on the premises, and the type of liquor establishment being granted.

Section 5.1 Types of Liquor Establishments. A grant from the tribal council may provide for the liquor establishment to be classified as one or more of the following:

- (a) Full Service – A full service establishment may sell all legal alcoholic liquors.
- (b) Beer and Wine Only – A beer and wine only establishment may only sell beer or malt beverages and/or wine.
- (c) Brewpub – A Brewpub is an establishment that serves food and manufactures beer or malt beverages on the premises.
- (d) Brewery – A Brewery is an establishment that manufactures beer or malt beverages.

Section 6. Ownership of Liquor Establishments. All liquor establishments within the territorial jurisdiction of the Sauk-Suiattle Indian Tribe shall be tribally owned, which may include a corporate entity owned entirely by the Sauk-Suiattle Indian Tribe, and further it shall be unlawful for any other business establishment or person in the territorial jurisdiction of the Sauk-Suiattle Indian Tribe to possess, transport or keep with intent to sell, barter, or trade to another, any alcoholic liquor.

Section 7. Compliance with State Law. All liquor establishments created by this act must comply with the laws of the State of Washington to the extent required by 18 U.S.C. §1161. Such compliance may be demonstrated either via a current license issued by the Washington State Liquor and Cannabis Board or by complying with any bilateral agreements the Tribe may

enter into with the State of Washington regarding liquor sales, such as a Memorandum of Understanding.

Section 8. Permissible Sales at Liquor Establishments. Commercial liquor establishments shall be permitted to sell alcoholic liquors, subject to any limitations based on classifications.

Section 9. Permissible Manufacture of Beer or Malt Beverages.

Section 9.1 Brewpubs. A brewpub is authorized to manufacture on the granted premises not more than 1,500 barrels of malt beverage in a calendar year solely for retail sale on the premises and solely in draft form.

Section 9.2 Breweries. A Brewery is authorized to manufacture and sell beer and or malt beverages for on or off premises consumption subject to the following:

(a) Retail. A brewery grant holder may sell beer or malt beverages to individuals, provided, however that such sales are limited to 3,000 barrels of malt beverages per year produced at the premises to the following individuals:

- a. Those who are on such premises for consumption of beer or malt beverages on the premises: and/or
- b. Those who will consume the beer or malt beverages off the premises, provided, however, that such sales shall not exceed a maximum of 288 ounces of malt beverages per consumer per day.

(b) Wholesale. A brewer grant holder may wholesale beer or malt beverages to retailers, however that such sales are limited to 10,000 barrels of beer or malt beverages per year produced on premises.

Section 10. Sauk-Suiattle Indian Tribe Law and Order Code Unaffected. Nothing in this Act is intended to repeal any part of the Sauk-Suiattle Indian Tribe Law and Order Code. It shall

remain unlawful for any person, to, in a public place, consume alcohol, or possesses or be in control of an open container containing alcohol, except that a liquor establishment operating pursuant to this Ordinance shall not be considered a public place for purposes of the Sauk-Suiattle Indian Tribe Law and Order Code.

Section 11. Minors.

- a.** It shall be unlawful for any person under the age of 21 years to buy, attempt to buy or to misrepresent their age in attempting to buy alcoholic liquor. It shall be unlawful for any person under the age of 21 years to transport, possess or consume any alcoholic liquor in the territorial jurisdiction of the Sauk-Suiattle Indian Tribe. No person shall sell or furnish alcoholic liquor to any minor.
- b.** Proof of Minimum Age: Where there may be a question of a person's right to purchase alcoholic liquor by reason of his age, such person shall be required to present any one of the following official issued cards of identification which shows his correct age and bears his signature and photograph:
 - i.** Liquor control authority card of identification of any state;
 - ii.** Driver's license of any state or "Identicard" issued by the Washington State Department of Motor Vehicles;
 - iii.** United States active duty military identification;
 - iv.** Passport;
 - v.** Any Tribal Identification card accepted by the State of Washington as official identification for purposes of purchasing alcohol;
 - vi.** Sauk-Suiattle Tribal identification card.

Section 12. Employment. No person shall be hired to work in a tribally owned liquor establishment if they are a minor.

Section 13. Enforcement and Penalties.

- a.** All liquor establishments, including any places used for storage or sale of liquor or any premises or parts of premises used or in any way connected physically or otherwise with the liquor establishment shall at all times be opened to inspection by any tribal inspector or tribal police officer.
- b.** Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal inspector or tribal police officer, demanding to enter therein in pursuance of this section and executing a duly authorized duty, or who obstructs or attempts to obstruct the entry of such inspector or tribal police officer, or who refuses or neglects to make any return required by this Title or the regulations passed pursuant thereto, shall be thereby deemed to have violated this Title.
- c.** For violation of any section of this Ordinance the person so convicted shall be subject to a fine not to exceed Three Hundred Sixty Dollars (\$360) and/or shall be sentenced to jail for a period not to exceed six months, or both.
- d.** All contraband liquor shall be confiscated by the Sauk-Suiattle Tribal Police Department and preserved in accordance with the established procedures for the preservation of impounded property.
- e.** Serious or repeated infractions may result in the suspension or termination of the liquor establishment grant by the Sauk-Suiattle Tribal Council. Prior to suspension or termination of the liquor establishment grant, the Tribal Council shall provide notice to the grant holder at least ten (10) days prior to the suspension or cancellation. The grant

holder shall have the right, prior to the suspension or termination date, to apply to the Sauk-Suiattle Tribal Court for a hearing to determine whether the grant was rightfully suspended or terminated. The sovereign immunity of the Sauk-Suiattle Indian Tribe is waived for this hearing; provided, however, that such waiver shall not be construed to allow an award of money damages against the Tribe nor any other relief other than a declaration of rights, nor shall it be construed to waive the sovereign immunity of the Tribe in any court but the Tribal Court.

- f. The Sauk-Suiattle Tribal Court shall have exclusive jurisdiction to enforce this code and the civil fines, criminal punishment and exclusion authorized by this section or the Sauk-Suiattle Law and Order Code.

Section 14. Sovereign Immunity. Unless specifically provided herein, nothing in this code is intended or shall be construed as a waiver of the sovereign immunity of the Sauk-Suiattle Indian Tribe. No liquor establishment, nor any of its employees, shall be authorized, nor shall they attempt, to waive the sovereign immunity of the Sauk-Suiattle Indian Tribe pursuant to this Code.

Section 15. Severability. If any provision or provisions in this code are held invalid by a court of competent jurisdiction, this Code shall continue in effect as if the invalid provision(s) were not a part hereof.

Section 16. Effective Date. This Code shall be effective following approval by the Tribal and Council and approval by the Secretary of the Interior or his/her designee and publication in the Federal Register as provided by federal law.

[FR Doc. 2019-27400 Filed: 12/18/2019 8:45 am; Publication Date: 12/19/2019]